

REMARKS

The official action of 17 September 2006 has been carefully considered and reconsideration of the application as amended is respectfully requested.

Claim 1 has been amended with the incorporation of recitations formerly in claim 5 (now canceled). New claim 25 has been added more completely to define the subject matter which Applicants regards as their invention. Claim 25 contains the subject matter in claim 4 and additionally recites that the composition is in the shape of flakes or noodles based on the description in the specification as filed at, for example, page 11, lines 13-16.

Applicants respectfully traverse the objection to claim 5 on the basis that the unit in the last line of claim 5 is correct. Applicants respectfully call the Examiner's attention in this respect to the fact that the recitation formerly in this claim (and now incorporated into claim 1) refers to "agglomerates", not to "a powder". "Agglomerates", as recited in the claims, correspond to aggregates and agglomerates, wherein the particle size refers to an entire body of aggregated or agglomerated primary particles. For better understanding in this respect, Applicants submit a table which shows the three (3) types of particles.

As described in the specification at page 9, lines 4-8 and Examples 1,

2, 4, 5 and 6 of the specification, the unit for agglomerates is “mm”.
Accordingly, Applicants respectfully request withdrawal of the objection.

Claims 1-5 and 24 stand rejected under 35 USC 102(b) as allegedly being anticipated by Mizuno. Applicants respectfully traverse this rejection.

The claimed invention is based at least in part upon Applicants' findings that the compositions according to the present invention enable a raw material for a sanitary ware body for slip casting to be stably stored for a long period of time. Further, a burden on raw material transfer and storage can be significantly reduced. Furthermore, a slurry for a sanitary ware body can be immediately regenerated from the composition for a sanitary ware body in a very simple manner and can be used for slip casting. Specifically, since the composition for a sanitary ware body according to the present invention has a low water content of 0 (zero) to 25% or 15 to 25% by weight, as compared with the slurry before the solidification, the volume and the weight can be significantly reduced. Therefore, a burden on raw material transfer and storage can be significantly reduced, and the efficiency of the transfer and storage can be increased (specification at page 5, lines 4-33).

In connection with these findings, Applicants have recognized the result-effective character of the claimed parameter: “the 50% average particle diameter of the agglomerates is 1 to 10 mm on a weight basis” in making dusting less likely to occur, preventing lowering in recovery and deterioration in

work environment. Applicants have also discovered that the workability at the time of transfer and reslurrying is also excellent (specification at page 9, lines 4-13); Examples 1, 2, 4, 5, 6, 7 and Results). Similarly, the structural feature “the composition is in shape of flakes or noodles” in claim 25 can improve workability and can shorten reslurrying time (specification at page 11, lines 13-16; Example 3 and Results). No such structural features and benefits provided thereby can be found in the Mizuno reference, as next discussed.

Mizuno fails to teach or suggest at least the claimed features that require (a) agglomerates with a 50% average particle diameter of 1 to 10 mm on a weight basis (claim 1 and the claims depending therefrom) and (b) that the composition be in the shape of flakes or noodles (claim 25). In fact, in the Mizuno reference, a slurry containing water added with an alumina powder, a deflocculant and an organic binder is subjected to slip casting, drying and calcining for a final product. No intermediate is obtained through this process. Moreover, there is nothing in the reference to show or suggest that, in the course of the slip casting, drying and calcining (a) agglomerates are formed with the claimed average particle diameter or (b) the composition is in the shape of flakes or noodles.

In making the rejection, the Examiner appears to be relying on an inherency rationale, i.e., that the raw material that is cast in Mizuno would inherently form “agglomerates of raw material” with the claimed average particle diameter. However, this reliance on inherency is respectfully

considered to be an “agglomerate,” this molded body is a sanitary ware which fails to satisfy the claimed numerical limitations recited in claim 1. Reslurrying of the Mizuno molded body would result in poor workability at the time of transfer and reslurrying (compare, present specification at page 9, lines 4-13). The molded body has been molded with a high density of the particles, and thus is not in condition where reslurrying can easily be done. Thus a sanitary ware body cast as described in Mizuno would not be expected to pass through a stage where there are agglomerates of the claimed average particle diameter.

In short, there is nothing of record to show or suggest that a composition cast as in Mizuno would inherently form agglomerates with the claimed average particle diameter and the Examiner respectfully has not provided any evidence that it would. Applicants respectfully submit that this is not a situation wherein official notice may properly be taken of a factual assertion whereby the Examiner is respectfully requested either to provide evidence in support of his contention or to withdraw the rejection. See MPEP 2144.03.

In addition to not being anticipatory, in the absence of any recognition in the prior art of (a) the result effective character of the claimed parameters of water content and average particle diameter of agglomerates or (b) any motivation or reason to form the Mizuno composition into the shape of a flake or noodle, Applicants respectfully submit that the prior art also could not have

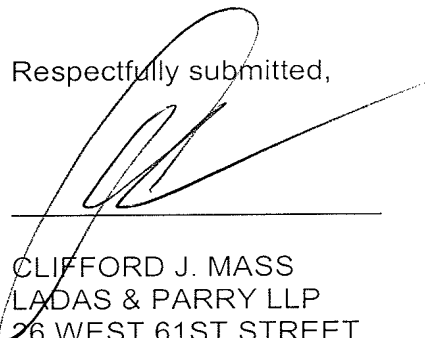
misplaced. An anticipation based on inherency requires that an asserted inherent characteristic **necessarily** be present in the composition described in the reference. See MPEP 2131.01(III) ("To serve as an anticipation when the reference is silent about the asserted inherent characteristic, such gap in the reference may be filled with recourse to extrinsic evidence. Such evidence must make clear that the missing descriptive matter is **necessarily** present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." Emphasis supplied).

There is, and cannot be, anything to show or suggest that agglomerates with the claimed average particle diameter would be present at any stage of making the sanitary ware body of Mizuno, and there is *a fortiori* nothing to show or suggest that agglomerates would **necessarily** be present. The Mizuno reference merely discloses a series of steps including slurry preparation, molding, drying and firing, since it aims at improving the strength of a sanitary ware by adding alumina into a slurry in order to produce the sanitary ware through slip casting. Generally speaking, the stages, if any, where there might be agglomerates would be the slurry preparation step and the molding step, but agglomerates would not be expected in these steps of Mizuno for the following reasons. For the slurry preparation step, the slurry is basically prepared so as to prevent agglomeration. In fact, in the Mizuno reference, since slurry agglomeration is made difficult by adding a deflocculant in view of the addition of alumina, particles are dispersed in the form of primary particles. For the molding step, although the molded body may be

rendered the claimed invention obvious. As discussed in MPEP 2144.05(II)(B), a particular parameter must first be recognized as a result-effective variable, i.e., a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. As discussed in MPEP 2142: "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Applicants respectfully submit that there is not adequate basis to establish even a *prima facie* case of anticipation or obviousness for the invention now being claimed.

In view of the above, Applicants respectfully submit that all rejections and objections of record have been overcome and that the application is now in allowable form. An early notice of allowance is earnestly solicited and is believed to be fully warranted.

Respectfully submitted,



CLIFFORD J. MASS
LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NEW YORK 10023
REG. NO.30086 (212)708-1890